

In the Matter of Merchant Mariner's Document No. Z-390900-D1 and
all other Licenses and Documents

Issued to: PEDRO NUNEZ MARTINEZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

968

PEDRO NUNEZ MARTINEZ

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

An Examiner of the United States Coast Guard conducted a hearing at New York, New York, and, by order dated 26 October 1956, suspended Appellant's seaman documents upon finding him guilty of misconduct. Two specifications allege in substance that while serving as Master-at-Arms on the American SS INDEPENDENCE under authority of the document above described, on or about 1 September 1956, while said vessel was in the port of Naples, Italy, Appellant assaulted and battered a member of the crew, Richard M. Curry, causing bodily injury.

After considering the evidence, the Examiner concluded that the charge and two specifications had been proved. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-390900-D1, and all other licenses and documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of two months outright and four months suspension on probation until twelve months after the termination of the outright suspension.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 1 September 1956, Appellant was in the service of the American SS INDEPENDENCE as a Master-at-Arms and acting under authority of his Merchant Mariner's Document No. Z-390900-D1 while the ship was moored alongside a pier in the port of Naples, Italy.

About 0200 on this date, Appellant was returning to the ship with a stewardess when Richard M. Curry, another member of the crew, was going down the gangway of the ship. Appellant was in an intoxicated condition and he became angry when he was greeted by

Curry. The latter walked away from Appellant but he ran up behind Curry and pushed him into the water. Curry climbed up a ladder to the pier where Appellant was waiting to strike Curry. The two seamen fought and Appellant was knocked into the water.

Shortly thereafter on the ship, Curry was talking with a crew member when Appellant charged up to Curry, struck him with his fists and kicked Curry several times.

As a result of these two attacks, Curry suffered a severe swelling of his right eye, abrasions of his right knee and swelling of his right elbow. Curry was still receiving medical treatment for his injured eye at the time of the hearing. The fall into the water ruined Curry's watch and damaged his clothes.

Appellant's prior record during 20 years at sea consisted of an admonition in 1946 for being absent from ship's drills without reasonable cause.

BASIS OF APPEAL

This appeal for clemency has been taken from the order imposed by the Examiner. Appellant states that he has no other means of supporting his family than by going to sea. The only exception taken to the Examiner's decision is the statement that there may be an impairment of the vision in Curry's right eye. In view of these considerations and Appellant's prior good record, it is respectfully requested that the order be modified to an entirely probationary suspension of six months.

APPEARANCE: Wilfrid E. Marrin, Esquire, of New York City of Counsel.

OPINION

On appeal, Appellant admits his guilt with respect to two independent attacks upon Curry which were completely unprovoked. As a result, Curry's right eye was seriously injured as is evidenced by the picture of him taken the day after this incident. The statement of the Examiner that Curry's vision may be impaired seems reasonable in view of the continued treatment for more than a month after the time of the injury. In view of the nature of these offenses, the order imposed by the Examiner was very lenient and it will not be modified despite Appellant's plea for clemency based upon various considerations.

ORDER

The order of the Examiner dated at New York, New York, on 26 October 1956, is

AFFIRMED.

A. C. Richmond
Vice Admiral United States Coast Guard
Commandant

Dated at Washington, D. C., this 11th day of June, 1957.